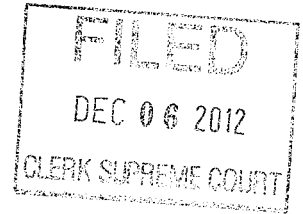


In the Supreme Court of Iowa



| | | |
|------------------------------------|---|--------------|
| Request for Public Comment |) | |
| Regarding Proposed Rules |) | |
| Governing the Filing of |) | Order |
| Electronic Documents in the |) | |
| Iowa Appellate Courts |) | |

The supreme court requests public comment on proposed new rules for Chapter 16 of the Iowa Court Rules governing the filing of documents in appeals to the Iowa Appellate Courts commenced on or after initiation of electronic filing in the appellate courts. The judicial branch Electronic Document Management System (EDMS) is now online in fifteen Iowa counties and continues to be implemented across the state. With an increasing percentage of electronic court filings statewide—it is anticipated that by the end of 2013 nearly 40 percent of all documents filed in Iowa courts will be filed electronically—the judicial branch plans to begin implementing EDMS for appellate court filings. As with electronic trial court filings, special rules of practice and procedure governing electronic appellate processes are necessary.

The supreme court seeks public comment on the proposed rules of Chapter 16 of the Iowa Court Rules governing appeals in EDMS prior to taking further action on them. Copies of the proposed appellate rules can be found at www.iowacourts.gov/Supreme_Court/Orders/. In addition, copies are available at the office of the Clerk of the Supreme Court.

Chapter 16 of the Iowa Court Rules governing EDMS is available on the judicial branch website at: http://www.iowacourts.gov/Online_Court_Services/EDMS/.

Any interested organization, agency, or person may submit written comments. Comments about a proposed rule must refer to the specific rule


number (for example, Rule 16.1214(2)) and the specific numbered line or lines to which the comments are directed. Comments sent by email must be emailed to **rules.comments@iowacourts.gov**, must state **"EDMS appellate rules"** in the subject line of the email, and must be sent **as an attachment to the email in Microsoft Word format**. Instead of submission by email, comments may be delivered in person or mailed to the Clerk of the Supreme Court, 1111 East Court Avenue, Des Moines, Iowa, 50319.

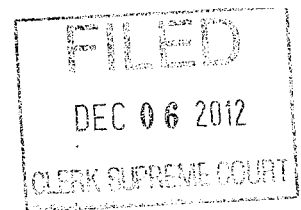
Any comments received may be posted on the Iowa Judicial Branch website.

The deadline for submitting comments is 4:30 p.m. on Monday, February 4, 2013.

Dated this 6th day of December, 2012.

The Supreme Court of Iowa

By 
Mark S. Cady, Chief Justice



DIVISION XII
Appeals to the Iowa Appellate Courts

Rule 16.1201 Effective date of appellate rules. The rules in division XII of this chapter govern the filing of all documents in all appeals to the Iowa Appellate Courts commenced on or after initiation of electronic filing in the appellate courts.

Rule 16.1202 Applicability of electronic filing requirements to cases before the appellate courts.

16.1202(1) *Appeals commenced on or after initiation of electronic filing.* The rules in division XII of this chapter govern the filing of all documents in all appeals commenced on or after initiation of electronic filing in the appellate courts.

16.1202(2) *Appeals commenced prior to initiation of electronic filing—appendix not filed.* Appeals pending prior to initiation of electronic filing and in which the appendix has not yet been filed are not subject to the requirements of this chapter until it is time to file the appendix. See Iowa R. App. P. 6.905(11) (time for filing appendix). The appendix and all subsequently filed documents shall be filed and served electronically under the rules of this chapter. The parties, if not already registered to file documents in the electronic document management system, must register before the time the appendix is required to be filed and served. See rules 16.305 (registration), 16.1204(1) (if previously registered no additional registration required), 16.1204(2) (exceptions to electronic filing participation).

1 **16.1202(3)** *Appeals commenced prior to initiation of electronic*
2 *filing –appendix already filed.* Appeals pending prior to the initiation of
3 electronic filing and in which the appendix has already been filed are not
4 subject to the requirements of this chapter.

5 **16.1202(4)** *Conversion upon court approval.* The appellate court,
6 upon its own motion or upon motion of a party, may order the conversion
7 of a pending appeal to electronic filing at any stage of the proceedings.

8 **Rule 16.1203 Applicability of rules in divisions I through VI to**
9 **appellate court cases.** Except for rules 16.101, 16.301(1), 16.302(2),
10 and 16.304(2), the rules in divisions I through VI, including rules
11 pertaining to the protection of personal privacy, apply in appellate court
12 cases.

13 **Rule 16.1204 Mandatory use of electronic document management**
14 **system for appellate cases.**

15 **16.1204(1)** *Mandatory electronic filing.* All lawyers authorized to
16 practice law in Iowa, all lawyers admitted pro hac vice, see Iowa Ct. Rule
17 31.14, and all self-represented litigants must register under rule
18 16.305(1) to participate in the electronic document management system.
19 If a lawyer or self-represented litigant has previously registered to
20 participate at the district or appellate court level then no additional
21 registration is required. As provided in this chapter, registered filers
22 must electronically submit all documents to be filed with the court
23 unless otherwise required or authorized by these rules.

24 **16.1204(2)** *Exemptions.*

1 *a. Good cause.* For good cause, the clerk of the supreme court, or
2 the clerk's deputy, may authorize a filer to submit a document by
3 nonelectronic means to the clerk for filing. Upon a motion showing that
4 exceptional circumstances make it unreasonable for a party to file
5 documents electronically, the supreme court may exempt the party from
6 electronic filing for purposes of the party's case on appeal. If a district
7 court exempted a party from electronic filing in the underlying action,
8 see rule 16.302(2), a copy of the district court order granting the
9 exemption shall be attached to the party's request to be excused from
10 electronic filing requirements for the case on appeal.

11 *b. Abortion notification appeals.* Abortion notification appeals may
12 be filed electronically or nonelectronically.

13 **Rule 16.1205 Paper case files.** Except as these rules otherwise
14 provided, see, e.g., rule 16.315(1) (items not to be electronically filed), or
15 as the supreme court directs, the clerk will not maintain paper case files
16 in appeals initiated on or after the initiation of electronic filing in the
17 appellate courts.

18 **Rules 16.1206 to 16.1208 Reserved.**

19 **Rule 16.1209 Certificate of confidentiality.** A party shall certify the
20 confidential nature of an electronically filed document, see Iowa R. App.
21 P. 6.110(2) and (3), by including a certificate of confidentiality as the first
22 page of the document. The certificate page shall contain only the caption
23 of the case, the certificate of confidentiality, which includes the
24 applicable statute or rule, and the signature of the party or counsel. See

1 Iowa R. App. P. 6.110(2). When filing a document that contains a
2 certificate of confidentiality, the filer must note that fact in the
3 appropriate place on the electronic cover sheet. See rule 16.201
4 (definition of “cover sheet”).

5 **Rules 16.1210 to 16.1211 Reserved.**

6 **Rule 16.1212 Filings requiring expedited consideration.** If a filing
7 requires expedited consideration, the filing party shall state the
8 circumstances in the special filing instructions to the clerk, including the
9 date of any impending district court trial or hearing.

10 **Rule 16.1213 Special signature requirements for notice of appeal or**
11 **application for interlocutory appeal in termination-of-parental-**
12 **rights or child-in-need-of-assistance cases under Iowa Code chapter**
13 **232.** A notice of appeal or an application for interlocutory appeal in Iowa
14 Code chapter 232 termination-of-parental-rights or child-in-need-of-
15 assistance cases shall follow the requirements of rule 16.306(5)(b)(1) for
16 electronic filing of documents containing two or more signatures. The
17 signature of the appellant shall be an original or an unaltered digitized
18 signature. See Iowa Rs. App. P. 6.102(1)(a), 6.104(1)(b)(1); rule 16.201
19 (definition of “signature”).

20 **16.1214 Initiation of appeal from final orders or judgments**
21 **appealable as a matter of right.**

22 **16.1214(1)** *Filing of notice of appeal in district court and service on*
23 *other required parties.* The notice of appeal from a final order or

1 judgment, *see* Iowa R. App. P. 6.102, shall be filed with the clerk of the
2 district court where the order or judgment was entered. If the appeal is
3 filed from a district court case governed by this chapter, *see* rules 16.101
4 and 16.102, the notice of appeal shall be filed and served on the other
5 parties according to the rules of this chapter. *See, e.g.,* Iowa R. App. P.
6 6.102(2)(b) (parties to be served); Iowa Ct. R. 16.317 (method of service),
7 16.318 (certificate of service). If the appeal is filed from a district court
8 case not governed by the rules of this chapter, the notice of appeal shall
9 be filed and served on the other parties in the conventional manner
10 pursuant to Iowa Rule of Civil Procedure 1.442(2). *See* Iowa R. App. P.
11 6.102.

12 **16.1214(2)** *Service on the clerk of the supreme court.* Unless a filer
13 is exempt from electronic filing pursuant to rule 16.1204(2), the notice of
14 appeal must be served on the clerk of the supreme court through the
15 electronic document management system. Service on the clerk of the
16 supreme court is accomplished by following the instructions on the
17 electronic document management system for filing a new notice of
18 appeal. The filer must be registered for electronic filing before serving
19 the notice of appeal on the clerk of the supreme court. *See* rule 16.305
20 (registration) and 16.1204(1) (if previously registered no additional
21 registration required).

22 **16.1214(3)** *Appearance.* If the appeal is from a district court case
23 not subject to the rules of this chapter, all parties to the appeal, unless
24 exempt from electronic filing under rule 16.1204(2), shall electronically
25 file an appearance in the appeal within seven days after the filing of the
26 notice of appeal. *See generally,* Iowa R. App. P. 6.109(4) and (5); rules

1 16.101, 16.102. A party must be registered to file documents in the
2 electronic document management system before electronically filing an
3 appearance. See rules 16.305 and 16.1204(1)(if previously registered no
4 additional registration required). A party will not receive electronic
5 notification and service of filed documents until the party electronically
6 files an appearance.

7 **Rule 16.1215 Applications for interlocutory appeal and applications**
8 **for discretionary review, petitions for writ of certiorari, certification**
9 **of questions of law, and other similar proceedings.**

10 **16.1215(1) Initiation.** Applications for interlocutory appeal and
11 applications for discretionary review, petitions for writ of certiorari, and
12 certification of questions of law, *see generally*, Iowa Rs. App. P. 6.104
13 (interlocutory), 6.106 (discretionary), 6.107 (certiorari), 6.302
14 (certification proceedings), 6.501 (other proceedings), shall be
15 electronically filed with the clerk of the supreme court. The filer must be
16 registered to file documents in the electronic document management
17 system before electronically filing the document initiating the appellate
18 court case with the clerk of the supreme court. See rules 16.305
19 (registration), 16.1204(1) (if previously registered no additional
20 registration required).

21 **16.1215(2) Service.**

22 *a. Parties to be served.* The filer shall serve the required parties.
23 See Iowa R. App. P. 6.104(1)(c) (interlocutory), 6.106(1)(c) (discretionary),
24 6.107(1)(c) (certiorari), 6.302(3) (certified questions of law).

1 **b. Method of service.** The filer shall electronically serve registered
2 filers pursuant to rule 16.317(1)(a)(2). The filer shall serve nonregistered
3 (exempted) filers and not-yet-registered filers pursuant to rule 16.317
4 (1)(b).

5 **16.1215(3) Appearance.** All parties shall, within seven days after
6 the filing of the application or petition, electronically file an appearance
7 with the clerk of the supreme court. *See generally* Iowa R. Crim. P.
8 2.29(6); Iowa Rs. App. P. 6.107(5), 6.109(4) and (5). A party must be
9 registered to file documents in the electronic document management
10 system before electronically filing an appearance. *See* rules 16.305 and
11 16.1204(1)(if previously registered no additional registration required). A
12 party will not receive electronic notification and service of filed
13 documents until the party electronically files an appearance.

14 **Rules 16.1216 to 16.1218 Reserved.**

15 **Rule 16.1219 Facsimile (fax) transmission or email transmission**
16 **does not constitute filing.** Transmitting a document to the clerk of the
17 supreme court or to an appellate court by fax or email will not generate a
18 notice of electronic filing and does not constitute electronic filing of the
19 document. *See* rules 16.201 (definition “notice of electronic filing”),
20 16.307 (electronic filing). Documents transmitted to the clerk of the
21 supreme court or to an appellate court by fax or email will only be filed if
22 the party is authorized to submit the document in that manner under
23 rule 16.1204(2) (exemptions to mandatory use of electronic document
24 management system).

1 **Rule 16.1220 Service of documents subsequent to notice of appeal,**
2 **application for interlocutory review, or similar initiating document.**

3 Service of documents filed subsequent to the notice of appeal,
4 application for interlocutory review, or similar initiating document shall
5 follow rules 16.317 and 16.320(2). Until a party electronically files an
6 entry of appearance, whether pro se or through an attorney, that party
7 cannot be served through the electronic document management system
8 and must be served as if that party was a nonregistered filer. See rule
9 16.317(1)(b).

10 **Rule 16.1221 Number of copies filed or served.**

11 **16.1221(1) *Number of copies to be filed.*** Except as the appellate
12 court otherwise orders in a particular case, when the Iowa Rules of
13 Appellate Procedure require multiple copies of any document be filed,
14 see, e.g., Iowa Rs. App. P. 6.901(7), 6.905(11), 6.906(5), 6.908(5), and
15 6.1103(5), the party shall electronically file only one copy of the
16 document. Nonregistered parties shall file only one paper copy of the
17 document. See rules 16.201 (definition of “nonregistered filer”) and
18 16.1204(2) (exceptions to electronic filing).

19 **16.1221(2) *Number of copies to be served.*** When the Iowa Rules of
20 Appellate Procedure require service of a document upon counsel or a
21 party, service shall be accomplished pursuant to rule 16.1220. When a
22 document is served through the electronic document management
23 system, no additional service is required. Nonregistered parties to an
24 appeal shall be served one paper copy by the filer.

1 **Rules 16.1222 to 16.1224 Reserved.**

2 **Rule 16.1225 Transmission of record.**

3 **16.1225(1)** *Transmission of notice of appeal and docket entries.*

4 The clerk of the district court shall electronically transmit certified copies
5 of the notice of appeal, the notice of cross-appeal, if any, and the docket
6 entries in the district court proceeding to the clerk of the supreme court
7 within four days after the filing of the notice of appeal or the notice of
8 cross appeal, if any. See Iowa R. App. P. 6.802(1).

9 **16.1225(2)** *Transmission of remaining record.* Within the time

10 required by Iowa Rs. App. P. 6.204 or 6.802(3), the appellant shall
11 request the clerk of the district court to transmit to the clerk of the
12 supreme court any remaining record. Any nonelectronic document or
13 exhibits, unless otherwise ordered by the supreme court, shall be
14 transmitted to the clerk of the supreme court nonelectronically. See
15 Iowa Rs. App. P. 6.204(1) (record in child-in-need-of-assistance appeals),
16 6.204(3) (record in termination-of-parental-rights appeals), 6.801
17 (composition of record on appeal), and 6.802(3) (transmission of
18 remaining record).

19 **16.1225(3)** *Request to transmit record in Iowa R. App. P. 6.1005*

20 *cases.* Within fourteen days after filing a motion to withdraw pursuant
21 to Iowa R. App. P. 6.1005(2), counsel shall request the clerk of the
22 district court to transmit to the clerk of the supreme court any remaining
23 record. See Iowa R. App. P. 6.1005(4) (request to transmit record). Any
24 documents or exhibits not created or stored in the electronic document

1 management system, unless otherwise ordered by the supreme court,
2 shall be transmitted to the clerk of the supreme court nonelectronically.

3 **Rule 16.1226** *Transcripts of proceedings.* The reporter shall
4 electronically file the original of the transcript with the clerk of the
5 supreme court. The format of the transcript shall comply with the
6 requirements of Iowa Rule of Appellate Procedure 6.803(2).

7 **Rules 16.1227 to 16.1229 Reserved.**

8 **Rule 16.1230 Pro se supplemental briefs.**

9 **16.1230(1)** *Pro se supplemental proof briefs, reply briefs, or*
10 *supplemental designations.* Any criminal defendant, applicant for post
11 conviction relief, or respondent committed under Iowa Code chapter
12 229A, who is authorized to be a nonregistered filer, may submit a pro se
13 supplemental proof brief, proof reply brief, or supplemental designation
14 of appendix to the clerk of the supreme court to be scanned and
15 electronically filed. See Iowa R. App. P. 6.901(2) (pro se supplemental
16 proof briefs); rules 16.201 (definition of “nonregistered filer”), 16.303
17 (submission of paper documents), and 16.1204(2) (exemption from
18 mandatory electronic filing).

19 **16.1230(2)** *Pro se supplemental final briefs.* Counsel for the
20 defendant, applicant, or respondent shall electronically file the final
21 copies of the pro se supplemental briefs and ensure service is
22 accomplished pursuant to rule 16.1220. See Iowa R. App. P. 6.901(2)(d).

1 **Rule 16.1231 References in briefs, motions, and other documents**
2 **submitted to the court.**

3 **16.1231(1)** *Hyperlinks and other electronic navigational aids.*

4 a. Hyperlinks and other electronic navigational aids may be
5 included in an electronically filed document as an aid to the court. Each
6 hyperlink or other electronic navigational aid must contain a text
7 reference to the target of the link.

8 b. Material linked by a hyperlink or other electronic navigational
9 aid is not considered part of the document being filed.

10 c. Hyperlinks to cited authority may not replace standard citation
11 format for constitutional citations, statutes, cases, rules, or other
12 similarly cited materials.

13 d. A party may not use hyperlinks or other electronic navigational
14 aids to circumvent the page limitations in Iowa Rule of Appellate
15 Procedure 6.903(1)(g).

16 **16.1231(2)** *References to the record in briefs.* All briefs shall comply
17 with the requirements of Iowa Rules of Appellate Procedure 6.903 (briefs)
18 and 6.904(4) (references in briefs to the record). However, references
19 made in the final brief to a part of the record shall include a citation to
20 the page or pages of the appendix at which those parts appear. The final
21 brief shall also contain a reference to the page of the actual transcript.
22 See rule 16.1232(2) and (3).

1 **Rule 16.1232 Appendix.**

2 **16.1232(1)** *Appendix required.* An appendix is required in
3 appeals governed by this chapter. An appendix shall comply with the
4 requirements of Iowa Rule of Appellate Procedure 6.905 except as
5 otherwise provided by these rules.

6 **16.1232(2)** *Transcripts filed electronically.* No portion of a
7 transcript filed electronically shall be included in the appendix. See
8 rules 16.402 and 16.1226.

9 **16.1232(3)** *Nonelectronic transcripts.* Relevant portions of
10 transcripts that have not been filed or stored in the electronic document
11 management system shall be included in the appendix. See Iowa R. App.
12 P. 6.905(2)(b). Examples of these types of transcripts include a paper
13 copy of a criminal trial proceeding admitted as an exhibit in a
14 postconviction relief action or a paper copy of a transcript from an
15 administrative proceeding submitted to the court in a judicial review
16 proceeding. See, e.g., rule 16.315(1)(a) and (b).

17 **Rule 16.1233 Color of front covers.** Rules requiring colored front
18 covers shall no longer apply to filings in appeals subject to these rules.
19 See, e.g., Iowa Rs. App. P. 6.903(1)(c) and 6.905(3)(a).

20 **Rule 16.1234 Attachments to motions.** The supporting documents to
21 a motion shall be electronically attached as an “attachment” to the
22 motion. See Iowa Rs. App. P. 6.1002 and 16.313. A party may not use
23 hyperlinks or other electronic navigational aids to circumvent the page
24 limitations in Iowa Rule of Appellate Procedure 6.1002.